

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**CP 296/2018 in
OA 3717/2016**

Reserved on 17.07.2018
Pronounced on 20.07.2018

Hon'ble Mrs. Praveen Mahajan, Member (A)
Hon'ble Mr. S.N.Terdal, Member (J)

Sh. Yogendra Kumar
S/o Sh. Avdhesh Singh,
Substitute Bungalow Khalasi,
R/o S-573-B, Ground Floor,
School Block, Shakarpur,
Delhi-110092.

... Petitioner

(By Advocate: Mr. R.K.Shukla)

VERSUS

Ms.Lata Kumari, IRTS
General Secretary & Director,
Wagon Interchange,
Indian Railway Conference Association,
New Delhi.

... Respondent

(By Advocate: Mr.V.S.R.Krishna)

ORDER

Mr. S.N.Terdal, Member (J):

Heard Shri R.K.Shukla, counsel for the petitioner and Mr. V.S.R. Krishna, counsel for the respondent, and perused the pleadings.

2. The facts of this case are that a disciplinary proceeding was initiated against the petitioner regarding some incidence which happened on 21.12.2014. Major penalty charge sheet was issued, Inquiry Officer was appointed, Inquiry Officer conducted the enquiry ex-parte and he submitted the report on 20.03.2015. The disciplinary authority passed dismissal order on 28.04.2015. Appeal against the said order of disciplinary authority was dismissed. On 26.07.2016, the Revisional Authority while deciding the Revision Petition ordered to

conduct re-enquiry as per the provisions of Railway Servants (Discipline and Appeal) Rules, 1968. At this stage, the applicant filed OA No.3717/2016, which was disposed of by this Tribunal vide order dated 11.12.2017 after hearing both the parties. In the said order, this Tribunal specifically recorded that the only limited prayer of the applicant was that he should be allowed to engage defence assistant in the said re-enquiry as per the relevant rules and for that purpose, the applicant was permitted to file a detailed fresh representation within 7 seven days and the respondents were directed to take decision on the said representation within 15 days from the date of receipt of the said representation.

3. After the disposal of the said OA with the above direction, the said Revisional Authority passed a speaking order on 09.01.2018. In the said order, it is recorded that the applicant did not prefer any appeal within the prescribed limit of seven days and she has further recorded that instead of filing the fresh appeal the applicant after 27 days of delay on 8.01.2018 filed an application seeking permission to appoint a defence helper as per the order of the Tribunal. Thus, misconstruing the order of the Tribunal, the Revisional Authority, i.e. the contemnor herein, upheld the earlier order of dismissal dated 28.04.2015 etc. holding that there is no question of fresh enquiry.

4. The order passed by this Tribunal on 11.12.2017 is very clear and unambiguous. It has been passed after hearing the counsel for the respondents. Acting in the letter and spirit of the order dated 11.12.2017, it is expected that the contemnor should have condoned the delay of 27 days, and decided the representation on merit. But he has not only condoned the delay of 27 days, further he stated that the

petitioner has not filed an appeal within the said seven days. He further went ahead and upheld the enquiry report, punishment order of disciplinary authority and of the appellate authority, which were impliedly set aside by the Revisional authority by order dated 26.07.2016. All this has been done in the name of humanitarian ground. Thus, the contemnor seems to have willfully disobeyed the order of this Tribunal dated 11.12.2017.

5. In the circumstances, contemnor/respondent is directed to be present personally on 04.09.2018 for showing cause as to why charge shall not be framed against her for disobedience of the order of this Tribunal.

(S.N.Terdal)
Member (J)

(Praveen Mahajan)
Member (A)

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